

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KIEL GREENLEE, et al.,

Plaintiffs,

:

Case No. 3:16-cv-064

- vs -

Magistrate Judge Michael R. Merz

SANDY'S TOWING AND RECOVERY,
INC., et al.,

Defendants.

:

**DECISION AND ORDER DENYING PLAINTIFFS' MOTION FOR
STAY PENDING APPEAL**

This case is before the Court on Plaintiffs' Motion to Stay Proceedings Pending Appeal (ECF No. 70). Plaintiffs' make no argument in support except to reference their contemporaneously filed Notice of Appeal (ECF No. 69) in which they say the basis for their Motion has been "fully briefed."

Plaintiffs' Notice of Appeal is ambiguous as to which court they believed they are appealing. In the caption they speak of appealing to "this Court." *Id.* at PageID 759. No such appeal is allowed by law. This case has been referred to the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c) with the unanimous consent of the parties. Federal law does not provide for any appeal from a Magistrate Judge's order in such a case to any other judge of the Court on which that Magistrate Judge serves.

Instead of appealing to “this Court,” Plaintiffs may be intending to appeal to the United States Court of Appeals for the Sixth Circuit although they have made no reference to that court in their Motion, nor have they either paid the filing fee to appeal to that court or sought leave to proceed on appeal *in forma pauperis*. While that court will have jurisdiction under 28 U.S.C. § 1291 of any appeal from a final judgment of this Court, it has no such jurisdiction at present because there has been no final appealable judgment in this case. The decisions from which the Plaintiffs purport to appeal – the Decision and Order Denying Plaintiffs’ Motion for Summary Judgment (ECF No. 64) and the notation order denying their Motion for Reconsideration (ECF No. 66) are interlocutory orders. To put it simply, no judgment has been entered in the case and thus there is nothing to appeal to the Sixth Circuit under 28 U.S.C. § 1291. If Plaintiffs doubt the legal correctness of this statement, they are free to file a notice of appeal to the Sixth Circuit with the Clerk of this Court.

The Motion to Stay is DENIED.

November 15, 2016.

s/ ***Michael R. Merz***
United States Magistrate Judge